

REMARKS***Claim Rejections Under 35 U.S.C. § 102***

Claims 1-7, 9-13 and 15-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Escobosa et al. (U.S. Published Application No. 2003/0151538 A1). Applicant respectfully traverses this rejection. Applicant reserves the right to swear behind the reference Escobosa et al., but submits that claims 1-7, 9-13 and 15-20 are allowable for the following reasons.

The Examiner stated, in part, “. . . Escobosa teaches an imaging device comprising: a network interface adapted for coupling to a network (Escobosa, [0047], fig. 1); a processing facility, wherein the processing facility is adapted to request a device configuration to upgrade an internal configuration of the imaging device from a second image device through the network interface in response to receiving an external upgrade command through the network interface from an external management facility and a network location of the second imaging device (Escobosa, [0047], from the user imaging device it transmits the configuration and download to the remote control for upgrade the remote control according the request after the shipping) . . .” See, Office Action mailed on January 22, 2007, Pages 2-3, Item 2.

Applicant respectfully disagrees with the Examiner and maintains that Escobosa et al. discloses a customizable and upgradeable remote control for a consumer electronic device, such as a television, that can be customized or upgraded by the user by accessing a website or other remote process through a computer to design and/or select the upgrade for download to a remote already in the possession of the user or to allow the production of a new customized remote for shipment to the customer. See, Escobosa et al., Abstract; Figures 1 and 5a-5b; and Paragraphs 0012, 0047-0049 and 0053-0056.

The Examiner’s rejection suggests that the user’s computer and supplier’s web server of Escobosa et al. are “imaging devices” and that the selection of a customized remote is a “configuration” of an imaging device. Applicant disagrees and, as detailed below, respectfully maintains that the Examiner is maintaining an overly broad interpretation of these terms and the claims that is contrary to the definition of these terms in the Specification, and is also contrary to the interpretation that would be given these terms by one skilled in the art.

Applicant understands that the Examiner is allowed to read the claims broadly. However, as stated by MPEP §2111, notes that this reading must be done to give the pending claims their “broadest reasonable interpretation consistent with the specification,” and that “[t]he broadest

reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.” In addition, as stated in MPEP §2111.01, “the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification,” and that “[a]n applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s).”

As stated above, Applicant respectfully maintains “imaging device” and “configuration” are described in the present Specification, at least, by Paragraphs [0002], and [0017]. In particular, Applicant notes that Paragraph [0017] states that “for purposes of this disclosure, networked imaging devices include, but are not limited to, printers, multi-function copiers, digital cameras, digital projectors, fax machines, and so forth. In this disclosure, the term configuration is intended to include, but is not limited to, imaging device configuration parameters, firmware, software, and supplemental information (such as help files, and diagnostics), in addition to other such imaging device parameters and upgrades in the form of programmable information.”

Applicant also respectfully contends that the Examiner’s interpretation of the claim limitations “imaging device” and “configuration” are contrary to the interpretation that would be given by one of ordinary skill in the art. Applicant maintains that one of ordinary skill in the art would not interpret customizing or upgrading a consumer electronics remote control by selecting on a web site the remote control’s upgrade for download and programming in to the remote as requesting “a device configuration to upgrade an internal configuration of the imaging device from a second imaging device through the network interface.” Applicant therefore respectfully disagrees with the Examiner’s assessment of the limitations of the claims and maintains that the Examiner is impermissibly reading an overly broad interpretation of the claims that is contrary to the definitions of the terms and limitations of the claims in the Specification. Applicant further notes that, even if Examiner’s definition of imaging device is maintained, the configuration disclosed in Escobosa et al. is for the consumer electronics remote control, and not for the user’s computer/”imaging device”.

Applicant thus respectfully contends that the relevant features and terms of the claims regarding “imaging device” and “configuration” are therefore described in the specification and as, as such, do not support the overly broad interpretation of these terms and the claims as maintained by the Examiner. In addition, Applicant respectfully contends that the Examiner’s

interpretation is also contrary to the interpretation that would be given these terms by one skilled in the art and as, as such, also do not support the overly broad interpretation of these terms and the claims as maintained by the Examiner.

Applicant therefore respectfully submits that Escobosa et al. fails to teach or disclose an imaging device that requests a device configuration to upgrade an internal configuration of the imaging device from a second imaging device across a network upon receiving an external upgrade command given by an external management facility. As such, Escobosa et al. fails to teach or disclose all elements of claims 1-13 and 15-20.

In addition, Applicant further notes that the Office Action rejects independent claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Escobosa et al. in view of Wysoczynski. However, the Office Action does reject claims 9-13, which depend from and further define independent claim 8, under 35 U.S.C. § 102(e) as being anticipated by Escobosa et al.

Applicant respectfully contends that dependent claims, which include every limitation of the claim from which they depend, cannot be rejected by fewer elements (contained in a smaller number of cited references) than used in rejecting the base claim they depend from. Applicant thus respectfully maintains that the Office Action's rejection under 35 U.S.C. § 102(e) of claims 9-13 as being anticipated by the reference Escobosa et al. alone, when independent claim 8, from which claims 9-13 depend, stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of both Escobosa et al. and Wysoczynski. *See, e.g.*, MPEP §608.01(n), §2143.03 and §2136.

Applicant's claim 1, recites, in part, "wherein the processing facility is adapted to request a device configuration to upgrade an internal configuration of the imaging device from a second imaging device through the network interface in response to receiving an external upgrade command through the network interface from an external management facility and a network location of the second imaging device." As detailed above, Applicant submits that Escobosa et al. fails to teach or disclose such an imaging device that requests a device configuration from a second imaging device across a network in response to receiving an external upgrade command given by an external management facility. As such, Escobosa et al. fails to teach or disclose all elements of independent claim 1.

Applicant's claim 6, recites, in part, "communicating with a first imaging device having a device configuration with an external management facility" and "directing the second imaging

devices with the external management facility of the first imaging device to update their device configuration using the device configuration of the first imaging device in a manner selected from the group consisting of: retrieving the device configuration from the first imaging device, storing the device configuration of the first imaging device in a storage location, and directing each of the second imaging devices to retrieve the device configuration of the first imaging device from the storage location; and directing each of the second imaging devices to retrieve the device configuration from the first imaging device.” As detailed above, Applicant submits that Escobosa et al. fails to teach or disclose such a computer-usable medium having computer-readable instructions stored thereon for execution by a processor to perform a method that requests a device configuration from a first imaging device by a second imaging device when directed by an external management facility across a network. As such, Escobosa et al. fails to teach or disclose all elements of independent claim 6.

Applicant’s claim 8, recites, “defining a list of similar imaging devices connected to the network, wherein the similar imaging devices share a common configuration, firmware, software, or supplemental information; defining a network location associated with desired device configuration for the list of similar imaging devices; and directing each imaging device of the list of similar imaging devices with an external management facility to retrieve the device configuration from the network location, by communicating with each imaging device of the list of similar imaging devices across the network with the external management facility.” As detailed above, Applicant submits that Escobosa et al. fails to teach or disclose such a method of updating device configuration for imaging devices connected to a network that requests a device configuration an external management facility from a network location across a network. As such, Escobosa et al. fails to teach or disclose all elements of independent claim 8.

Applicant’s claim 15, recites, “receiving across a network an external upgrade command from an external management facility and a network location associated with a desired device configuration for the imaging device; and retrieving the desired device configuration from the network location.” As detailed above, Applicant submits that Escobosa et al. fails to teach or disclose such a method of upgrading an imaging device that requests a device configuration from a network location upon receiving an external upgrade command from an external management facility and a network location associated with a desired device configuration for the imaging device. As such, Escobosa et al. fails to teach or disclose all elements of independent claim 15.

Applicant respectfully contends that claims 1, 6, 8 and 15 as pending have been shown to be patentably distinct from the cited reference. As claims 2-5, 7, 9-14, and 16-20 depend from

and further define claims 1, 6, 8 and 15, respectively, they are also considered to be in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e) and allowance of claims 1-7, 9-13 and 15-20.

Claim Rejections Under 35 U.S.C. § 103

Claims 8 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Escobosa et al. (U.S. Published Application No. 2003/0151538 A1) in view of Wysoczynski (U.S. Published Application No. 2002/0083156 A1). Applicant respectfully traverses this rejection and submits that claims 8 and 14 are allowable for the following reasons.

Applicant continues to respectfully maintain, as stated above, that Escobosa et al. fails to teach or suggest all elements of claim 8. In addition, Applicant respectfully maintains that Wysoczynski discloses an image restoration and reconfiguration support for crashed network devices that allows last known good software image and device configuration to be restored to the crashed network device from a server by either automatically initiating restoration from the device when the crashed network device enters a fatal mode or by physically entering the address, image and configuration at the console of the crashed network device. Applicant therefore respectfully submits that Wysoczynski also fails to teach or suggest an imaging device that requests a device configuration to upgrade an internal configuration of the imaging device from a second imaging device across a network upon receiving an external upgrade command across the network from an external management facility. *See*, Wysoczynski, Figures 1-3; Abstract; and Paragraphs [0022], [0026]-[0027], [0030]-[0033], [0037], and [0044]-[0046]. Applicant therefore respectfully submits that combining the elements of Escobosa et al. with Wysoczynski fails to teach or suggest all elements of independent claim 8, either alone or in combination and thus also fails to teach or suggest all elements of claims 9-14 that depend from and further define independent claim 8.

Applicant respectfully contends that claim 8 as pending has been shown to be patentably distinct from the cited references, either alone or in combination. As claim 14 depends from and further defines claim 8 it is also considered to be in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 8 and 14.


CONCLUSION

In view of the above remarks, Applicant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 08-2025.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2207.

Respectfully submitted,

Date: 4/16/07



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